

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

| | | |
|---------------------------|---|----------------------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Cause No. 4:11-cr-0008-SEB-MGN-1 |
| |) | |
| TYLER THEVENOT, |) | |
| |) | |
| Defendant. |) | |

REPORT AND RECOMMENDATION

On August 5, 2014, the Court held a hearing on the Petition for Warrant or Summons for Offender Under Supervision filed on July 11, 2014. Defendant Thevenot appeared in person with his appointed counsel, Bill Dazey. The government appeared by Matt Rinka, Assistant United States Attorney. U. S. Parole and Probation appeared by Officer Diane Asher.

The Court conducted the following procedures in accordance with Fed. R. Crim. P. 32.1(a)(1) and 18 U.S.C. § 3583:

1. The Court advised Defendant Thevenot of his rights and provided him with a copy of the petition. Defendant Thevenot waived his right to a preliminary hearing.
2. After being placed under oath, Defendant Thevenot admitted the violations.
[Docket No. 136.]
3. The allegations to which Defendant admitted, as fully set forth in the petition, are:

**Violation
Number**

Nature of Noncompliance

- 1 **“The defendant shall participate in a substance abuse treatment program at the direction of the probation officer, which may include no more than eight drug tests per month. The defendant shall abstain from the use of all intoxicants, including alcohol, while participating in a substance abuse treatment program. The defendant is responsible for paying a portion of the fees of substance abuse testing and/or treatment.”**

The offender failed to report for random drug tests on March 21, April 18, 24, May 7, 12, 20, 29, June 12, 30, and July 9, 2014. It is noted he failed to report for all drug tests in April and May.

- 2 **“The defendant shall not commit another federal, state or local crime.”**

- 3 **“The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.”**

On March 20, 2014, the offender was charged with driving while suspended in Washington County, Indiana. This contact with law enforcement was never reported to this officer.

- 4 **“The defendant shall report to the probation officer and shall submit a truthful and complete written report with the first five days of each month.”**

- 5 **“The defendant shall follow the instructions of the probation officer.”**

The offender failed to report to the U.S. Probation Office on March 14, 21, 28, April 4, and May 8, 2014, as directed. He failed to submit a monthly report form for February and March 2014.

- 6 **“The defendant shall reside for a period of up to 180 days at a residential Reentry Center (RRC) as directed by the probation officer and shall observe the rules of that facility.”**

On April 15, 2014, the Court ordered the offender to reside at a RRC. According to the Residential Reentry Center, the offender amassed 17 violations while residing at the facility. On July 9, 2014, he fled the center after being found in possession of what appeared to be synthetic marijuana. His current whereabouts is unknown.

4. The parties stipulated that:
 - (a) The highest grade of violation is a Grade C violation.
 - (b) Defendant's criminal history category is I.
 - (c) The range of imprisonment applicable upon revocation of Defendant Thevenot's supervised release, therefore, is 3 to 9 months' imprisonment.

5. The Government recommended a sentence of 6 months in the BOP followed by 30 months of supervision including up to 6 months at a Residential Reentry Center. Defendant asked for a lesser sentence.

The Magistrate Judge, having considered the factors in 18 U.S.C. § 3553(a), finds the Defendant violated the conditions in the petition, that his supervised release should be revoked, and that he should be sentenced to the custody of the Attorney General or his designee for a period of 6 months, followed by 30 months of supervised release to include up to 6 months at a Residential Reentry Center. The Defendant is to be taken into custody immediately pending the District Judge's action on this Report and Recommendation.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge. The parties have fourteen days after being served a copy of this Report and Recommendation to serve and file written objections with the District Judge.

Dated: 08/08/2014



Denise K. LaRue
United States Magistrate Judge
Southern District of Indiana

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